

REMARKS

By virtue of this amendment after final, claims 1-9, 11-14, and 17 are currently pending in this application. In a September 17, 2004 Final Office Action, the Examiner rejected claims 1-9, 12-15, and 17, and objected to claims 10, 11, and 16 as being dependent on a rejected base claim, but otherwise allowable. The applicant respectfully thanks the Examiner for the indication of allowable subject matter. The applicant respectfully traverses the rejections.

In the action, the Examiner rejected claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable and obvious over United States Patent No. 5,391,356 (“Thorman”) in view of United States Patent No. 4,841,884 (“Engstrom et al.”). The Examiner rejected claims 9, 13-15, and 17 under 35 U.S.C. § 103(a) as being unpatentable and obvious over Thorman in view of United States Patent 4,309,948 (“Zielinski”).

In an effort to expedite this case to allowance, the applicants have amended claim 1 to positively recite a portion of the device in which the apparatus to remove seeds functions. In particular, claim 1 has been amended to recite a combination of elements include, for example, “an air kettle for a seed dryer where the air kettle has at least one plenum and at least one diffuser that directs air towards a bottom of a seedbed such that the air to dry seeds fluidizes a seedbed to provide seed drying,” which is not disclosed or suggested by Thorman or any of the other references of record. Rather Thorman discloses a method of introducing “flow of fluid from a fluid source with a bed of particles in a fluidized state.” (Column 2, lines 45-50 (emphasis added)). Thorman only works on a bed of particles in a fluidized state because fluid is introduced mid bed and forced downward through the bed. Because of its location and direction the fluid flow is insufficient to fluidize the bed. Hence, Thorman requires fluid flow into a bed of particles in a fluidized state. Conversely, the present invention provides fluid flow at the base of the bed and directed outward and upward. The location and direction of fluid flow causes the fluid flow itself to fluidize the seedbed.

Neither Engstrom nor Zielinski cure the defect in Thorman. Thus, amended claim 1 is patentably distinct from Thorman and the other references of record either alone or in any reasonable combination thereof. Withdrawal of the rejection and allowance of the pending claim is specifically requested.

Claims 2-8 depend directly or indirectly from claim 1 and, at least by virtue of the dependency are patentably distinct from Thorman and the other references of record either alone or in any reasonable combination thereof. Withdrawal of the rejection of claims and allowance of claims 2-8 is specifically requested.

The applicants have amended claim 9 to incorporate the recitations of claim 10. As the Examiner has indicated claim 10 contained allowable subject matter, the applicants respectfully submit that claim 9 is in condition for allowance. Withdrawal of the pending rejection and allowance of claim 9 is specifically requested.

Claims 11-13 depend from claim 9 and, at least by virtue of the dependency are believed in condition for allowance. Withdrawal of the rejection and allowance of claims 11-13 is specifically requested.

The applicants have amended claim 14 to incorporate the recitations of claims 15 and 16. As the Examiner has indicated claim 16 contained allowable subject matter, the applicants respectfully submit that claim 14 is in condition for allowance. Withdrawal of the pending rejection and allowance of claim 14 is specifically requested.

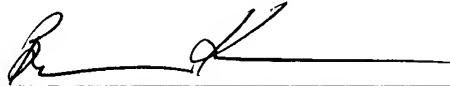
Claim 17 depends from claim 14 and, at least by virtue of the dependency is believed in condition for allowance. Withdrawal of the rejection and allowance of claim 17 is specifically requested.

The applicants respectfully request that the Examiner consider this Amendment and Response. The applicant submits that claims 1-9, 11-14, and 17 are presently in condition for allowance and that no new matter has been

introduced by this response. The applicant believes that the proposed response does not raise new issues or necessitate the undertaking of any additional search of art by the Examiner, because all of the elements were either earlier claimed or inherent in the claims as examined. Therefore, the amendment should allow for immediate action by the Examiner. Alternatively, the Applicants believe that entry of the response would place the application in better form for appeal, should the Examiner dispute the patentability of the claims.

No fee is believed due for entry of this paper. If an extension of time under 35 C.F.R. § 1.136 is required to obtain entry of this Amendment, such an extension is requested. If there are fees due under 37 U.S.C. §§ 1.16 or 1.17 which are not otherwise accounted for, please charge our Deposit Account No. 08-2623.

Respectfully submitted this 6 day of December 2004.



Brian Kinnear, Reg. No. 43,717
Attorney for Applicant
HOLLAND & HART LLP
555-17th Street, Suite 3200
P.O. Box 8749
Denver, Colorado 80201
(303) 295-8170